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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the BADIL Resource Center for Palestinian Residency and Refugee Rights, Union of Arab Jurists, non-governmental organizations in special consultative status, Mouvement contre le racisme et pour l'amitié entre les peuples, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Denial of Family Unification

BADIL Resource Center, on behalf of 14 Palestinian and international human rights organizations, would like to address the pressing issue of denial of family unification. As recognized within Article 16 of the *Universal Declaration of Human Rights*,[1] the family unit is the fundamental societal group, and as such is entitled to protection by States. In the context of refugees, family unification is crucial in restoring the dignity to the life of the individual and laying secure foundations for the integration, or reintegration, of displaced communities.[2] To this end, human rights law acknowledges the need to strengthen the family unit, and this is reflected in specific State obligations to keep families together, as well as to reunify them if separated.[3] In direct contravention of these legal obligations, from its occupation of the Gaza Strip and the West Bank including East Jerusalem in 1967, Israel has consistently and deliberately enforced an arbitrary separation of Palestinian family members.

In 1991 Israel imposed new requirements demanding Palestinians from the occupied Palestinian territory be in possession of a permit in order to enter Israel, including occupied and annexed East Jerusalem. With the introduction of closures and checkpoints, Palestinians found it increasingly difficult to travel to East Jerusalem and Israel, prompting an exponential rise in the number of family unification applications. The ongoing construction of the Israeli Annexation Wall compounds this issue further, making it virtually impossible for Palestinian residents of the West Bank to visit family members who live in East Jerusalem or Israel without the necessary permit.

Therefore, Israeli-administered family unification procedures are the only available avenue for Palestinians who find themselves separated from their families, and the current legislative basis for these procedures is provided by the *Citizenship and Entry into Israel Law (Temporary Provision)*. This law – passed by the Knesset (the Israeli parliament) in July 2003 and renewed annually up to the present day[4] – prevents Palestinians with West Bank or Gaza Strip IDs, or residents of "enemy states" (Lebanon, Syria, Iran, and Iraq)[5] from gaining Israeli citizenship or permanent residency by way of marriage to an Israeli citizen. The law only allows for the granting of permits to reside or stay in Israel for purposes of medical treatment or fixed-term employment for a period which cannot cumulatively exceed six months.[6]

Prevented from acquiring permanent residency status with their families in Israel or East Jerusalem, Palestinians from Gaza and the West Bank must make impossible choices between living separately from their spouses and children, living illegally with their spouse in Israel or East Jerusalem – in constant fear of arrest and deportation – or to have their spouse move to live with them, which is also illegal on account of a military order prohibiting Israelis from entering the occupied Palestinian territory.[7] This latter option is also likely to result in the revocation of the individual's Jerusalem residency status and the numerous social benefits which accompany it. Moreover, the provision acts retroactively, applying also to couples who had submitted applications prior to the bill's ratification by the Knesset. Those applications approved, but not yet authorized for permanent residency status, remain frozen. This has left those applicants hanging in limbo, at the stage of short-term temporary residency permits but with little prospect of attaining residency despite Israel already deeming them suitable candidates. According to Ha'aretz, between 16,000 and 21,000 Palestinian families are affected in this way.[8]

As it currently stands, the only way in which Palestinians of the occupied Palestinian territory can acquire Israeli citizenship or permanent residency status in Israel or East Jerusalem is through collaboration with the State.[9] At the discretion of the Minister of the Interior, temporary-stay permits can be issued to Palestinians, affording short-term visitation rights, though these permits do not entitle the holder to any social rights or health insurance, and are conditional on their ability to satisfy both "center of life" and security requirements. In addition, though permits are also available to children under 14 years old,[10] these merely allow a child to remain within Israel or East Jerusalem until they reach the age of eighteen, with the provision failing to specify which legal status is to be accorded at that juncture.

The legislation's Second Amendment provides for permits to be granted to otherwise ineligible persons in the event of special humanitarian reasons,[11] with such decisions being made by a committee consisting of individuals from bodies including the Judiciary, Security Services and Ministry of Defense. However, the amendment specifies that being married to – or having children with – a person who is lawfully present in Israel does not constitute a special humanitarian condition. Moreover, the provision also states that permission to stay or reside in Israel or in East Jerusalem may be denied by the Minister of Interior if activities liable to endanger the State have been carried out within the applicant's area of residence. Following this amendment, in 2008 the Israeli government passed a resolution according to which persons registered as residents of the Gaza Strip or who have been living in the area are no longer eligible to apply for family unification. The 'justification' for this decision was that the Gaza Strip is considered to be a

region where actions against the State of Israel are perpetrated, and its result is that Palestinians with Gaza ID-holding spouses have been completely denied of their right to live with their family in Israel or in East Jerusalem.[12]

A holistic consideration of Israel's approach to family unification – both for Palestinians residing in Israel and those residing within the occupied Palestinian territory (including East Jerusalem) reveals a clear and highly discriminatory pattern of behavior. Indeed, review of the historical background and contemporary reality surrounding family unification paints a picture of ever-tightening restrictions on the ability of Palestinians to enjoy the most basic of human rights, that of a family life. This steady erosion of democratic principles has ultimately resulted in many thousands of Palestinians suffering great hardship and emotional distress which intrudes on all aspects of life.

Moreover, the effects of such policy are also felt beyond the confines of individual family units, as legislation such as the *Citizenship and Entry into Israel Law* damages the social and cultural bonds which hold societies together. Israel's family unification policy can be seen as a blatant attempt to reduce the Palestinian population in Israel and the occupied Palestinian territory in order to secure a Jewish demographic majority. It is important to note that forced population transfer is not restricted to physical force:

> [...] but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.[13]

Therefore the undersigned organizations urge the Council to:

- Call upon Israel to cease its policy of denying residency rights to Palestinian inhabitants of East Jerusalem, the remainder of the West Bank, the Gaza Strip and Israel proper;
- Ask the Special Rapporteur on the Human Rights of Internally Displaced Persons to conduct an investigation within the occupied Palestinian territory, as well as in Israel proper;
- Develop and implement effective measures to bring Israel into compliance with its obligations to international humanitarian and human rights law, and particularly address Israel's policies of arbitrary residency restrictions;
- Condemn the Israeli residency policy towards the Palestinian population of East Jerusalem, along with its residency policy towards the Palestinian populations of the remaining occupied Palestinian territory, which amounts to forced population transfer.

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* Occupied Palestine and Golan Heights Advocacy Initiative, Addameer Prisoner Support and Human Rights Association, Defence for Children International - Palestine Section NGO(s) without consultative status, also share the views expressed in this statement.

[1] Torsten Heinemann and Ursula Naue, "Immigration and Family Reunification: The International Legal Framework," Immigene, November 8, 2008, http://immigene.eu/immigration-and-family-reunification-the-international-legal-framework.
[2] UNHCR, "Family Reunification in the Context of Resettlement and Integration" (UNHCR - United Nations High Commissioner for Refugees, June 21, 2001), http://www.unhcr.org/3b30baa04.pdf.
[3] Heinemann and Naue, "Immigration and Family Reunification: The International Legal Framework."
[4] On March 19, 2014, the Israeli government decided to extend the validity of the Temporary Order for another year.
[5] Mossawa Centre, "Policy Paper: Nationality and Entry into Israel Law (Temporary Order)" (Mossawa Centre, 2012).
[6] Amjad Alqasis and Nidal Alazza, Denial of Residency- Forced Population Transfer: The Case of Palestine, BADIL Resource Center for Palestinian Residency and Refugee Rights, http://www.badil.org/en/documents/category/35-publications?download=1097%3Awp-16.
[7] Commander of IDF forces, Order 378 - Regarding Defense Regulations (Judea and Samaria), 5730 Proclamation Regarding Closure of Area (Prohibition on Entry and Stay) (Israelis) (Area A), 5 October 2000.
[8] Gideon Alon and Yair Ettinger, "Cabinet Extends 'Unsoftened' Nationality Law by Six Months," Haaretz, July 19, 2004, http://www.haaretz.com/print-edition/news/cabinet-extends-unsoftened-citizenship-law-by-six-months-1.128828.

[9] The State of Israel, The Citizenship and Entry Law (Temporary Provision) 5763-2003 Section 1.
[10] The State of Israel, Nationality Law, 1952, http://www.israellawresourcecenter.org/israellaws/fulltext/nationalitylaw.htm.
[11] State of Israel, "The Citizenship and Entry Law."
[12] Citizenship and Entry into Israel Law (Temporary Order) 5763- 2003 – Validity Extension.
[13] International Criminal Court, 'Rome Statute of the International Criminal Court: Elements of Crimes' (International Criminal Court, 2011), Article 6(e).